

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1787 of 2007****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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BHAYAVADA NAGAR PANCHAYAT - Appellant(s)**Versus****HANSABEN CHIMANLAL- HEIR OF CHIMANLAL GOPALBHAI -
Defendant(s)**

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Appearance :

MR DEEPAK P SANCHELA for Appellant(s) : 1,
None for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 18/04/2007****ORAL JUDGMENT**

1. Present appeal has been filed by the appellant -
original respondent - Bhayavadar Nagar
Panchayat under Section 30 of the Workmen
Compensation Act challenging the judgment and

award passed by the learned Commissioner for Workmen Compensation, Labour Court, Rajkot dated 18.12.2006 passed in Workmen Compensation (Fatal) Case No. 54/1999 by which the learned Commissioner has directed the appellant to pay Rs.1,69,440/- towards the compensation with interest at the rate of 6%.

2. It appears from the record that the original applicant - widow of one Chimanlal Gopalbhai Mandakiyana, employee who was serving with the appellant, filed Workmen Compensation (Fatal) Case No. 54/1999 for getting the compensation under the Workmen Compensation Act, contending inter alia, that while the deceased workman - employee was on duty, he died due to electric shock. On appreciation of evidence and considering the documentary evidence on record, learned Commissioner for Workmen Compensation passed the impugned judgment and award by holding that the deceased died due to suffering of electric shock while he was on duty. Being aggrieved and dissatisfied with the said

judgment and award, the appellant has preferred the present appeal under Section 30 of the Workmen Compensation Act.

3. Learned counsel appearing on behalf of the appellant has submitted that in fact, the deceased workman was not present at the place of the incident at the time of accident. He has also further submitted that in fact, the deceased workman was not supposed and expected to go to the place where the electric sub-station was installed. It is also further submitted that as such the deceased has not died due to electric shock as alleged while he was on duty. This Court has gone through the Records & Proceedings. First of all, no such plea has been taken by the appellant which has been taken in the present appeal and the learned counsel appearing on behalf of the appellant is also not in a position to satisfy this Court that even any such plea is taken. Even otherwise, considering the order passed by the very appellant granting appointment to the original

applicant on compassionate ground it appears that even the appellate has specifically mentioned that the deceased has died on duty due to the electric shock. The said document is dated 31.3.1998. Considering the above, it cannot be said that the learned Commissioner has committed any error in passing the impugned judgment and award. Even otherwise, the learned counsel appearing on behalf of the appellant has failed to satisfy this Court with regard to any substantial question of law. Whether the finding of the learned Commissioner for Workmen Compensation that the deceased had died due to electric shock while on duty is a question of fact and cannot be said to be substantial question of law. Under the circumstances and for the reasons stated above, the appeal fails and is accordingly dismissed. No costs.

4. While parting with this order, it is to be observed that the appellant has deposited an amount of Rs.1,69,440/- pursuant to the judgment and award passed by the learned Commissioner for

Workmen Compensation. Under the circumstances, considering the fact that the original applicant is a widow and the fruits of the judgment and award passed by the learned Commissioner reaches to the original applicant and the amount is not misused and misapplied, the learned Commissioner for Workmen Compensation is directed to invest 80% of the amount deposited by the appellant in fixed deposit in any Nationalized Bank for a period of 5 years in the name of the original applicant with a condition that without the prior permission of the concerned Court / tribunal, there shall not be any loan and/or advance on the said fixed deposit, however, the claimant will be entitled to the periodical quarterly interest and for the balance amount of 20%, the learned Commissioner for Workmen Compensation is directed to pay the same to the original claimant by Account Payee Cheque.

5. Office is directed to communicate this order to the learned Commissioner for Workmen Compensation immediately.

[M.R.Shah, J.]

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